

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 1237 by Representative St. Germain

CRIMINAL/PROCEDURE: Amends criminal procedure relative to witnesses called to serve in the armed forces

Synopsis of Senate Amendments

1. Provides that the moving party, either the defense counsel or the district attorney, may also file the motion for continuance and attest to the facts forming the basis of the motion.

Digest of Bill as Finally Passed by Senate

Present law (C.Cr.P. Art. 578) provides for the following time limitations regarding the commencement of criminal trials:

- (1) In capital cases - three years from the date of institution of the prosecution.
- (2) In other felony cases - two years from the date of institution of the prosecution.
- (3) In misdemeanor cases - one year from the date of institution of the prosecution.

Present law (C.Cr.P. Art. 580) provides for the suspension of present law (C.Cr.P. Art. 578) time limitations when a defendant files a motion to quash or other preliminary plea until the ruling of the court thereon, and provides that in no case shall the state have less than one year after the ruling to commence the trial.

Present law (C.Cr.P. Art. 709) provides that a motion for a continuance based upon the absence of a witness shall state:

- (1) Facts to which the absent witness is expected to testify, showing the materiality of the testimony and the necessity for the presence of the witness at the trial.
- (2) Facts and circumstances showing a probability that the witness will be available at the time to which the trial is deferred.
- (3) Facts showing due diligence used in an effort to procure attendance of the witness.

Proposed law retains present law and provides for the continuance and the suspension of present law time limitations in criminal proceedings when the district attorney or defense counsel submits a factual showing that an absent witness is on active military duty in the U.S. Armed Forces.

Provides that the provisions of this Act are remedial, curative, and procedural and are to be applied retroactively to Jan. 1, 2010, as well as prospectively.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends C.Cr.P. Arts. 580 and 709)